

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARTIN LUTHER KING, JR. COUNTY, *et al.*,

Plaintiffs,

v.

SCOTT TURNER, *et al.*,

Defendants.

Case No. 2:25-cv-00814-BJR

**DECLARATION OF SUSAN FLETCHER**

I, Susan Fletcher, pursuant to 28 U.S.C. Section 1746, hereby declare as follows:

1. I have been employed by the United States Department of Transportation, Federal Transit Administration (“FTA”) since March 29, 2009. Currently, I am the Regional Administrator for FTA’s Region X Office in Seattle, Washington. I make this declaration based upon personal knowledge and information made known to me in the course of my professional duties.
2. As the Regional Administrator, my duties and responsibilities include reviewing all Region X grants for federal assistance to ensure each grant application is complete and includes all information required in order for FTA to award a grant to a recipient for a specific project.
3. Some FTA grants are discretionary, while others are “formula” grants, in which Congress designates amounts to be made available for transit projects in specific geographic areas based on statutory formulas.

4. All FTA's individual grant awards incorporate by reference the version of FTA's Master Agreement at the time of the award, as well as FTA's Certifications and Assurances document.
5. In general, FTA updates its Master Agreement approximately annually to reflect changes in law and policy, and places true and correct copies on its public website, which includes previous versions of the Master Agreement dating back to 2009: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>. After FTA publishes a new version of the Master Agreement on its website, FTA begins incorporating the new version by reference into federal financial assistance awards and amendments to awards executed after publication.
6. In Fiscal Year 2022, FTA updated the Master Agreement twice. In 2023, it did not update it at all. This year, FTA again updated the Master Agreement twice, in March and April, and followed the procedure in the preceding paragraph both times.
7. FTA's Master Agreement has long required recipients to certify they comply with federal antidiscrimination laws and that their grant applications, certifications, and assurances are subject to the Program Fraud Civil Remedies Act and potential criminal liability for false statements. Specifically, under section 4(e), entitled *False or Fraudulent Statements or Claims*, which has been in FTA's Master Agreement since at least 2009, grant recipients agree that: (i) federal laws, including executive orders, apply to them; (ii) by executing the agreement, they certify the truthfulness and accuracy of any statements or representations; and (iii) the federal government may impose penalties for any false information the recipients provide.
8. For several years at least, FTA's Master Agreement has stated that grant recipients will comply with applicable federal requirements, including any applicable federal law, regulation, or executive order.
9. The Master Agreement requires FTA to provide the recipient written notice of any perceived violation of the agreement.
10. FTA also requires all its recipients to sign a separate annual "Certifications and Assurances" document. *See* 49 U.S.C. § 5323(n). This document compiles both universal provisions that all FTA recipients must agree to, and certifications and assurances that only apply to some recipients depending on the nature of the recipient, grant program or specific project. *See* 49 U.S.C. § 5323(n). True and correct copies of Certifications and Assurances documents dating back to 2009 are publicly available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

11. In the universal provisions applicable to all recipients, FTA's Certifications and Assurances have long included: (i) a specific certification that the recipient agrees to comply with all Federal statutes relating to nondiscrimination (*see* Certification 1.1(f)) and (ii) an acknowledgment that all the recipient's certifications and assurances are made subject to the Program Fraud Civil Remedies Act and criminal provisions of 18 U.S.C. § 1001.
12. To accept a grant award, a recipient executes a grant document electronically through FTA's grant awards system. Again, that grant document incorporates by reference the annual Certifications and Assurances document as well as the current version of the Master Agreement. Any grants that FTA awards (or amendments made to previously awarded grants) after the publication of a new version of the Master Agreement are made subject to the terms and conditions of that newest version.
13. FTA has awarded grants to King County Metro Transit ("King County Metro") for many years. King County Metro receives several types of federal funding from FTA. Formula funding accounts for 56% of current active grants, where the total amount apportioned to King County Metro comes from legislative formulas that are based on certain statutory factors (e.g. population, low-income population, senior population, etc.). Depending on the funding source of the formula funds, FTA may make the money directly available to King County Metro, or it will occur through a designated recipient, who receives and apportions the funds to eligible projects and recipients like King County Metro. King County Metro also receives approximately 18% of discretionary (or competitive) funds from FTA, which are awarded based on criteria advertised for specific purposes (e.g., rail vehicle replacement, passenger ferry). Lastly, FTA can administer flex funds, which are FHWA federal funds that are transferred to FTA to apply to transit projects. Approximately 26% of King County Metro's funds from FTA are flex funds. Once the funds are transferred from FHWA to FTA, the funds take on the characteristics of formula funds.
14. All King County Metro funds are specifically for capital projects, not general operating assistance. King County Metro's prior year grant agreements, including for the FY2023 grants it previously executed, were made subject to the then-current versions of the FTA Master Agreement.
15. FTA's records show that King County Metro signed the FY 2024 Certifications and Assurances last year. That document remains valid until it is updated. FTA has not yet produced a 2025 version of the annual Certifications and Assurances.
16. On May 8, 2025, King County Metro executed five new grants or amendments to existing grants totaling \$79,950,228 in federal funds. King County Metro accepted the terms of the Master Agreement, subject to the limitations set forth by this Court's Temporary

Restraining Order, by executing the grant documents electronically in FTA's online grants awards system, TrAMS. TrAMS does not allow recipients to excise or revise provisions of the Master Agreement before signing.

17. With the above actions complete, there are currently no FTA grants or grant amendments awaiting execution by King County Metro.
18. There are 19 other applications for grants or applications for amendments to existing grants that are in various phases of review. Eight applications are "in review," 11 are "in progress," and one is ready for award. Two of the 19 are zero-dollar amendments, while the others all apply for funding.
19. FTA's procedural requirements, attached as **Exhibit A**, mandate that the agency give recipients written notice of any perceived violation of their grant agreement, certifications, or assurances.
20. In March 2025, DOT issued a memorandum clarifying and reiterating DOT's policy to provide fair notice and due process in any enforcement action. A true and correct copy is attached as **Exhibit B**. The memo is also made available on DOT's website at <https://www.transportation.gov/administrations/office-general-counsel/general-counsel%E2%80%99s-enforcement-memorandum>

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of May, 2025.

**SUSAN KAY  
FLETCHER**

Digitally signed by SUSAN  
KAY FLETCHER  
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Susan Fletcher  
Regional Administrator  
Federal Transit Administration, Region X